

Regular Session, 2009

SENATE BILL NO. 246

BY SENATORS CHEEK, NEVERS AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HOSPITALS. Provides relative to the Electronic Health Records Loan Program (7/1/09)

AN ACT

To enact Part XXIX-A of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1299.96.11 through 1299.96.14, relative to the Electronic Health Records Loan Program; to provide findings and purpose; to provide definitions; to facilitate access to funding for acquisition and implementation of certified electronic health record technology by health care providers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XXIX-A of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1299.96.11 through 1299.96.14, is hereby enacted to read as follows:

PART XXIX-A. ELECTRONIC HEALTH RECORDS LOAN PROGRAM ACT

§1299.96.11. Short title

This Part shall be known as and may be cited as the "Electronic Health Records Loan Program."

§1299.96.12. Legislative findings; purpose

The legislature finds that:

1 (1) Through the state's health care reform efforts, it has been recognized
2 that Health Information Technology (HIT) and Health Information Exchange
3 (HIE) are critical to improving and evaluating the quality of health care
4 delivered to the citizens of Louisiana across the full spectrum of service
5 delivery. The state has made significant investments in HIT that should be
6 leveraged and built upon while continuing to address the low adoption rate of
7 HIT by providers statewide.

8 (2) The state and federal governments have recognized that the use of
9 an interoperable electronic health record (EHR) is the foundation of HIT
10 adoption and can improve outcomes and reduce costs.

11 (3) In February of 2009, the United States Congress, in enacting the
12 American Recovery and Reinvestment Act of 2009 (ARRA), made a substantial
13 financial commitment to the national expansion of HIT by providing
14 approximately seventeen billion dollars in funding for enhanced Medicare and
15 Medicaid reimbursements to certain providers who demonstrate meaningful use
16 of certified EHR technology, as well as an additional two billion dollars for
17 competitive grants to the states to create regional infrastructure and to provide
18 loans to providers for the purchase and implementation of an EHR.

19 (4) Under ARRA, many of Louisiana's providers will become eligible for
20 enhanced Medicare reimbursement in the federal fiscal year beginning October
21 1, 2010 by becoming a meaningful user of certified EHR technology and will
22 suffer financial consequences for failing to do so in the federal fiscal year
23 beginning October 1, 2014. Additionally, enhanced Medicaid reimbursement
24 will be available to certain providers who are engaged in efforts to adopt,
25 implement, or upgrade certified EHR technology or who are meaningful users
26 of such technology, beginning on a date that has not yet been specified by the
27 federal government.

28 (5) The ARRA's loan program competitive grant provisions are
29 designed to facilitate the widespread adoption of certified EHR technology, thus

1 achieving provider eligibility for the enhanced Medicare and Medicaid
2 reimbursements. The application process requires that the state develop and
3 submit a strategic plan that will be annually updated, and that must include a
4 list of the projects to be assisted through the program, a description of the
5 criteria and methods established for the distribution of funds, the financial
6 status of the loan fund as of the date of submission of the plan and the short-
7 term and long-term goals of the program.

8 (6) In 2007, the state authorized the secretary to enter into a
9 Cooperative Endeavor Agreement ("CEA") with the Rural Hospital Coalition,
10 Inc. (the "Coalition"), for the establishment of the Louisiana Rural Health
11 Information Exchange (LARHIX), a multi-regional health care information
12 exchange. With the funding provided, seven rural hospitals acquired EHR
13 technology and were linked to Louisiana State University Health Sciences
14 Center - Shreveport (LSUHSC-S) via a state-of-the-art integration engine,
15 permitting a panel of specialists to access a rural patient's medical record in
16 real time while consulting with the patient over the telemedicine equipment
17 located at the rural hospital. In 2008, the state entered into a five-year CEA
18 with the Coalition and provided funding to expand the network to seven
19 additional rural hospitals. LARHIX has been honored as a network model with
20 multiple award nominations by national technology organizations.

21 (7) The state is required to meet federal match requirements to secure
22 funding under the ARRA loan program provisions. Once such funding is
23 secured, the state can establish the loan program and thereby make application
24 for ARRA program funds. When established, the loan program will facilitate
25 the expansion of current efforts, including LARHIX, to assist providers in
26 acquiring certified EHR technology. By enacting this legislation, the legislature
27 is providing the department and the secretary with specific authority to
28 facilitate the state's application for ARRA loan program funding and to
29 administer the state's EHR loan program.

1 **§1299.96.13 Definitions**

2 **As used in this Part, the following terms shall have the following**
3 **meanings unless the context clearly indicates otherwise:**

4 **(1) "Department" means the Department of Health and Hospitals or its**
5 **successor in the role of designated state agency under Title XIX of the Social**
6 **Security Act or any successor Act including, but not limited to, block grants or**
7 **other funding for medical care of the poor.**

8 **(2) "Certified EHR technology" means a qualified electronic health**
9 **record (as defined in Section 3000(13) of the Public Health Service Act) that is**
10 **certified pursuant to Section 3001(c)(5) of such Act as meeting standards**
11 **adopted under Section 3004 of such Act that are applicable to the type of record**
12 **involved.**

13 **(3) "Secretary" means the secretary of the Department of Health and**
14 **Hospitals.**

15 **§1299.96.14. Establishment of the Electronic Health Records Loan Program**

16 **A. The "Electronic Health Records Loan Program" is hereby created**
17 **within the department.**

18 **B.(1) The secretary is hereby authorized to establish the Electronic**
19 **Health Records Loan Program utilizing such sums that are made available**
20 **through any one or more of the following:**

21 **(a) Annual appropriation.**

22 **(b) A public/private partnership involving financial institutions.**

23 **(c) Any other method authorized by law.**

24 **(2) Such funding shall be utilized by the state to satisfy the federal match**
25 **requirements of the loan program provisions of ARRA.**

26 **(3) All loan program funds shall be administered by the department**
27 **pursuant to the provisions of this Part.**

28 **C. To the extent permitted by law, the debt service associated with loans**
29 **made to eligible providers shall be serviced from funds received by such**

providers as enhanced reimbursements under ARRA.

D. The department shall assist the state in the preparation of a competitive grant application and any other required submissions to secure funding made available under the ARRA loan program provisions.

E. The secretary is authorized to enter into CEAs to facilitate with any entity access to the ARRA loan program funding and to make loans to eligible providers to provide for the acquisition and implementation of certified EHR technology by eligible providers.

F. The secretary shall enter into a CEA with the Coalition, the terms of which shall govern the program's loans made available to rural hospitals so as to provide for the expansion and administration of LARHIX and other related matters.

G. The secretary may consult with the Louisiana Healthcare Quality Forum in administering this program.

Section 2. This Act shall become effective on July 1, 2009; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2009, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Thomas F. Wade. The following digest, which does not constitute a part of the legislative instrument, was prepared by Martha Hess.

DIGEST

Cheek (SB 246)

Proposed law enacts the Electronic Health Records Loan Program Act and provides for legislative intent.

Proposed law authorizes the secretary to establish the Electronic Health Records Loan Program utilizing sums made available through:

- (a) Annual appropriation;
- (b) A public/private partnership involving financial institutions;
- (c) Any other method authorized by law.

Proposed law provides that such funding shall be used by the state to satisfy the federal match requirements of the loan program provisions of ARRA.

Provides that all loan program funds shall be administered by the department and provides that to the extent permitted by law, the debt service associated with loans made to eligible providers shall be serviced from funds received by such providers as enhanced reimbursements under ARRA.

Proposed law provides the department shall assist the state in preparing competitive grant applications and other required submissions to secure funding under the ARRA loan program provisions.

Authorizes the secretary to enter into cooperative endeavor agreements necessary to facilitate access to ARRA loan funding and requires the secretary to enter into a cooperative endeavor agreement with the Rural Hospital Coalition, Inc. to govern the loans made to rural hospitals to provide for the expansion and administration of the LARHIX program.

Authorizes the secretary to consult with the Louisiana Healthcare Quality Forum in administering the program.

Effective July 1, 2009.

(Adds R.S. 40:1299.96.11 through 1299.96.14)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill.

1. Authorizes the secretary to establish the Electronic Health Records Loan Program utilizing sums made available through (a) annual appropriation; public/private partnership involving financial institutions; any other method authorized by law.
2. Broadens the scope of the loan program from funding only rural hospitals to funding eligible Louisiana health care providers.
3. Provides that such funding shall be used by the state to satisfy the federal match requirements of the loan program provisions of ARRA.
4. Provides the department shall assist the state in preparing competitive grant applications and other required submissions to secure funding under the ARRA loan program provisions.
5. Authorizes the secretary to enter into cooperative endeavor agreements necessary to facilitate access to ARRA loan funding.
6. Requires the secretary to enter into a cooperative endeavor agreement with the Rural Hospital Coalition, Inc. to govern the loans made to rural hospitals to provide for the expansion and administration of the LARHIX program.
7. Authorizes the secretary to consult with the Louisiana Healthcare Quality Forum in administering the program.
8. Provides effective date of July 1, 2009.